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IN THE

Supreme Court of the United States

October Term, 1936. No. ~~13~~ 7 Original.

THE STATE OF TEXAS,
Plaintiff,

v.

THE STATE OF FLORIDA, ET AL.,
Defendants.

Answer of Mabel Harlow Green, One of the Defendants.

GEORGE WHARTON PEPPER,
JOSEPH J. FISCHER,
2228 Land Title Building,
Philadelphia, Penna.,
Solicitors for Defendant,
Mabel Harlow Green.

PEPPER, BODINE, STOKES & SCHOCH,
Of Counsel.

International, 2d Chestnut St., Philadelphia

IN THE

Supreme Court of the United States.

October Term, 1936.

No. . ORIGINAL.

THE STATE OF TEXAS,
Plaintiff,

against

THE STATE OF FLORIDA, ET AL.,
Defendants.

ANSWER OF MABEL HARLOW GREEN, ONE OF THE DEFENDANTS.

MABEL HARLOW GREEN, one of the defendants herein, for answer to ~~complainant's~~ plaintiff's bill of complaint, respectfully shows:

1. Paragraph 1 of the bill is admitted, except that at the date of the decedent's death this defendant was domiciled in Texas and except that she is now only a temporary resident of New York.

2. This defendant has no knowledge with respect to the averments of paragraph 2 of the bill.

3. This defendant is without knowledge as to the facts averred in paragraph 3 of the bill.

4. Paragraph 4 of the bill is admitted.

5. This defendant is without knowledge as to the facts averred in paragraph 5 of the bill.

6. This defendant is without knowledge as to the facts averred in paragraph 6 of the bill.

7. This defendant is without knowledge as to the facts averred in paragraph 7 of the bill.

8. Paragraph 8 of the bill is admitted, except that this defendant is informed, believes and therefore avers that the 80 per cent. credit permitted to the decedent's estate by section 301 of the Revenue Act of 1926 applies only to the tax paid to the state in which the decedent died domiciled.

9. Paragraph 9 of the bill is admitted.

10. It is admitted that in the month of June, 1936, the decedent, Edward H. R. Green, was domiciled in the State of Texas, in the City of Terrell, in the County of Kaufman, and that he died in Essex County, in the State of New York, where he was temporarily sojourning. The defendant admits that he was possessed at the time of his death of property of great value, but is without knowledge as to the extent, location, character and value thereof.

11. This defendant is without knowledge as to the facts averred in paragraph 11 of the bill.

12. This defendant is without knowledge as to the facts averred in paragraph 12 of the bill.

13. This defendant is without knowledge as to the facts averred in paragraph 13 of the bill; but this defendant avers that under the law of Texas where the decedent died domiciled, she was the owner at the time of his death of one-half of all property acquired by the decedent between July 10, 1917 and June 8, 1936, which one-half was and is free from all Federal and State inheritance, succession or transfer taxes.

14. This defendant is without knowledge as to the facts averred in paragraph 14 of the bill.

15. This defendant is without knowledge as to the facts averred in paragraph 15 of the bill.

16. This defendant is without knowledge as to the facts averred in paragraph 16 of the bill.

17. This defendant is without knowledge as to the facts averred in paragraph 17 of the bill.

18. Paragraph 18 of the bill is admitted.

19. Paragraph 19 of the bill is admitted.

20. Paragraph 20 of the bill is admitted.

21. Paragraph 21 of the bill is admitted.

22. Paragraph 22 of the bill is admitted.

23. On information it is admitted that the State of Florida, the Commonwealth of Massachusetts and the State of New York claim that the decedent was domiciled at death within its territorial limits. This defendant is advised, believes, and therefore avers that the payment of the transfer, succession or inheritance taxes to the state of domicile is a condition of the right and privilege of succession in such state.

24. This defendant admits that the decedent did not die possessed of sufficient property physically situated in the State of Texas to satisfy the asserted claim and asserted liens of the State of Texas for inheritance tax. The other averments of paragraph 24 of the bill and their implications are denied.

25. This defendant is without knowledge as to the facts averred in paragraph 25 of the bill.

26. Paragraph 26 of the bill is admitted, except that this defendant is without knowledge as to whether the right of the State of New York or any of the other defendant states to a succession, transfer or inheritance tax on the estate of the decedent is involved in the proceeding before the Surrogate of Essex County, New York.

27. Paragraph 27 of the bill is admitted, except that this defendant is without knowledge as to whether the State of Texas, the State of Florida, the State of New York or the Commonwealth of Massachusetts will appear in any of the proceedings mentioned in paragraph 27 of the bill of complaint.

28. This defendant is without knowledge as to the facts averred in paragraph 28 of the bill.

29. This defendant is without knowledge as to the conclusions of law averred in paragraph 29 of the bill or whether this Court has jurisdiction to entertain the bill.

30. It is admitted that in none of the proceedings referred to in paragraph 26 of the bill has any adjudication as to domicile been made, except as to Texas; and it is admitted that in none of such states has there been any adjudication as to liability for taxes. Except as aforesaid, the averments of paragraph 30 are denied.

31. Paragraph 31 of the bill is admitted.

32. This defendant is without knowledge as to the facts averred in paragraph 32 of the bill.

33. This defendant is without knowledge as to the facts averred in paragraph 33 of the bill.

34. If the plaintiff, the State of Texas, has brought this bill solely in order to collect the transfer, succession or inheritance taxes which it claims, nevertheless this defendant is informed, believes and therefore avers that in case this court determines that Texas or any one of the three defendant states was the domicile of the decedent, such determination will be binding upon all of the defendants, not only for tax purposes, but also for the purpose of distribution of the estate of the decedent to the party or parties thereunto entitled under the laws of the state so determined to be the domicile.

35. Subject to the foregoing it is admitted that an actual controversy now exists between the above parties.

WHEREFORE, this defendant submits herself to the judgment of your Honorable Court upon the question whether it shall determine that Texas was the domicile of the decedent, or shall dismiss the bill of complaint.

GEORGE WHARTON PEPPER,

JOSEPH J. FISCHER,
Solicitors for Mabel Harlow Green.